

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EDDIE HERNANDEZ,

Plaintiff,

v.

57 DEGREES NORTH, LLC, *et al.*,

Defendants.

Case No. C06-1098L

ORDER GRANTING
MOTION TO COMPEL

This matter comes before the Court on defendant's motion to compel plaintiff to attend an independent medical examination ("IME") with vascular specialist Frank Fiaschetti, M.D., in Ketchum, Idaho (Dkt. #47). Defendant originally scheduled the IME for June 7, 2007, during the week that plaintiff was in Seattle for his deposition, but plaintiff refused to attend the IME.

Although an IME usually should be conducted in the forum plaintiff has selected for litigation, in this case, traveling to Idaho is not significantly more burdensome for plaintiff, who lives in Virginia, than traveling to Seattle. Furthermore, plaintiff could have made the short airplane trip to Idaho while he was already in Seattle for his

1 deposition.¹ Plaintiff is currently unemployed, so he will not have to take time off from
2 work. Defendant will pay for plaintiff's travel expenses.² Defendant's counsel attempted
3 to find a suitable and willing physician in Seattle to conduct the IME, but was unable to
4 do so. Conducting the IME in Virginia could result in increased expenses and a
5 significantly decreased likelihood that the IME physician could appear at trial. Dr.
6 Fiaschetti has explained that merely conducting a review of the records, without
7 examining plaintiff, would be insufficient. Finally, plaintiff argues that the motion is
8 untimely because there is no evidence that the examination can be completed and an
9 expert report disclosed by the July 7, 2007 deadline. The delay, however, was caused by
10 plaintiff's refusal to attend the deposition while he was already on the West Coast in
11 early June.

12 For all of the foregoing reasons, the Court GRANTS defendant's motion to compel
13 (Dkt. #47). Plaintiff must submit to an IME with Dr. Fiaschetti at his office in Ketchum,
14 Idaho on a mutually convenient date.

15 DATED this 27th day of June, 2007.

16 

17 Robert S. Lasnik
18 United States District Judge

19
20 ¹ Plaintiff argues that he has traveled to Seattle twice, once in early April and once
21 in early June. Defendant denies that plaintiff traveled to Seattle for this case in early
22 April, and argues that the early June trip was the only one defendant has required him to
make to litigate this case.

23 ² Given that plaintiff is unemployed, the Court expects that defendant will
24 purchase the airplane ticket and pay for the other travel expenses in advance to the extent
25 possible.